

REMARKS

The above amendments and these remarks are responsive to the non-final Office action dated November 24, 2006, and are being filed under 37 C.F.R. § 1.111. Claims 41-60 and 62-95 are pending in the application. However, the Examiner withdrew claims 47 and 54 from consideration following applicants' Response to Restriction Requirement, filed April 6, 2006, in which applicants did not include these claims in the list of claims that read upon the elected species (Figure 1). In the Office action, the Examiner (1) allowed claims 41-46, 48-53, 55-60, and 62-64; and (2) rejected claims 74-95 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,793,658 to LeHuec et al. ("LeHuec"). (The Examiner inadvertently listed LeHuec as U.S. Patent No. 6,793,685 in the Office action.)

Applicants traverse the rejections, contending that rejected claims 74-95 are patentable over the cited reference. Nevertheless, to expedite issuance of a patent, applicants have canceled pending claims 74-95, without prejudice. Applicants reserve the right to pursue the canceled claims at a later time.

Applicants request that withdrawn dependent claims 47 and 54 be rejoined and allowed for depending from allowed claim 41. With regard to examination of withdrawn claims, the Manual of Patent Examining Procedure states:

The propriety of a restriction requirement should be reconsidered when all the claims directed to the elected invention are in condition for allowance, and the nonelected invention(s) should be considered for rejoinder. Rejoinder involves withdrawal of a restriction requirement between an allowable elected invention and a nonelected invention and examination of the formerly nonelected invention on the merits. [MPEP § 821.04]]

Once a generic claim is allowable, all of the claims drawn to species in addition to the elected species which require all the limitations of the generic claim will ordinarily be allowable over the prior art in view of the allowability of the generic claim, since the additional species will depend thereon or otherwise require all of the limitations thereof. [MPEP § 806.04(d)]

Accordingly, rejoinder and allowance of withdrawn claims 47 and 54 is proper because (1) all the claims directed to the elected invention are in condition for allowance, and (2) claims 47 and 54 are to drawn to non-elected species that depend from and require all the limitations of allowed generic claim 41.

Applicants believe that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, applicants respectfully request that the Examiner issue a Notice of Allowability covering claims 41-60 and 62-64. If there are any questions regarding this communication, including but not limited to the rejoinder of claims 47 and 54, or if a telephone interview would in any way advance prosecution of the application, the Examiner is encouraged to contact the undersigned attorney of record, James R. Abney, or his associate Stanley M. Hollenberg (Reg. No. 47,658), both at the telephone number listed below.

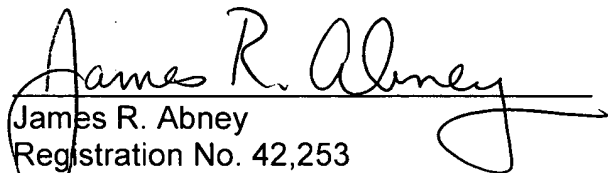
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on December 13, 2006.


Christina Rainey

Respectfully submitted,

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